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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,957	03/30/2004	Charles-Antoine De Barbuat	119148	2872
25944	7590	01/03/2006		
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			EXAMINER HUYNH, LOUIS K	
			ART UNIT 3721	PAPER NUMBER

DATE MAILED: 01/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/811,957	DE BARBUAT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Louis K. Huynh	3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-9, drawn to a packaging system, classified in class 206, subclass 497.
  - II. Claims 10-18, drawn to a method of forming and filling a package, classified in class 53, subclass 442.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process such as partially adhering the additional heat-shrinkable sheet to the first heat-shrinkable sheets and then inserting the products into the box through the unadhered portion.

3. Because these inventions are distinct for the reasons given above as shown by their different classification, the search required for Group I is not required for Group II, and because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Mr. Scott Schulte (Reg. No. 44,325) on 11/30/2005 a provisional election was made with traverse to prosecute the invention of Group II, claims 10-18. Affirmation of this election must be made by applicant in replying to this Office action.

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Claims 1-9 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### ***Claim Objections***

3. Claim 10 is objected to for being dependent on a withdrawn claim 1. Applicant is respectfully requested to amend or re-write the claim in independent form in accordance with current U.S. practice.

4. Claim 15 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 14. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

#### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 10-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For example:

- In claim 10: steps for performing the method are not properly set forth; antecedent basis has not been properly provided for claimed limitations; phrases such as “the box that is still without is cover” (claim 10, line 7), “over the box of into the later” (claim 10, lines 10-11) are confusing and not understood; etc.
- Claim 11 is indefinite because the step of shrinking the film cannot be carried out simultaneously with the step of welding the additional heat-shrinkable film to the first heat shrinkable films for the films must welded together to form a heat-shrinkable band prior to be heat shrunk over the product.
- Claim 12 is indefinite for it is unclear as to whether or not the heat-protection sheet is actually inserted inside the box.
- Claims 13-15 lack proper antecedent basis because neither the step of gluing the heat-shrinkable films to the corresponding faces of the box nor the step of pinching the film has been set forth.
- Claim 16, line 4: the phrase “in particular” renders the claim indefinite for it is unclear the limitation following the phrase is a part of the claimed limitations.
- Claim 18, line 2: the phrase “in the case” render the claim indefinite for it is unclear whether or not this “case” actually exists.
- Claim 18, line 4: the phrase “in particular” renders the claim indefinite for it is unclear the limitation following the phrase is a part of the claimed limitations.

***Allowable Subject Matter***

7. Claims 10 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. The prior art of record fails to disclose and/or teach a method for forming packaging for products that includes the steps of placing an additional heat-shrinkable sheet over the box, welding the additional heat-shrinkable sheet to the first heat-shrinkable sheets at the level of the upper part of the corresponding faces of the lateral band of the box to form a single continuous film, and shrinking by heating the continuous film to tighten in over all the products arranged inside the box.

8. Claims 11-14 and 16-18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

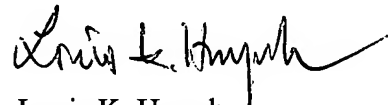
***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied references.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is 571-272-4462. The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Louis K. Huynh  
Primary Examiner  
Art Unit 3721

December 27, 2005